

REMARKS

This Amendment is in response to the Office Action, dated June 30, 2010 ("Office Action"). Claims 1-5, 7-8, 10-11, 13-14, and 16-18 are pending in the instant application; claims 1, 3, 4, 7, and 16 having been amended; and claim 6 having been canceled by virtue of the present amendment (claims 9, 12, and 15 having been previously canceled). No new matter is added. Examination of the claims in view of the ensuing remarks is respectfully requested.

Claim 1 has been amended to provide a formula and define the formula for the isolated polypeptide, derivative and analogue thereof, and to clarify that the truncation thereof comprises the tandem repeat of apolipoprotein B. Support for this amendment may be found throughout the specification; for example, page 9 and original claim 6.

Claims 3, 4, 7 and 16 have been amended to change "SEQ ID No." to "SEQ ID NO:"

Claim 4 has been amended to clarify that the isolated polypeptide, derivative and analogue comprises the tandem repeat.

In the Office Action, claims 3 and 7 were objected to due to alleged informalities for using "SEQ ID No." These claims have been amended, as suggested by the examiner, to use "SEQ ID NO:" rather than "SEQ ID No." Applicant respectfully requests the rejection be withdrawn.

The Sequence Listing was objected to due to alleged informalities. Submitted herewith is a substitute sequence listing and includes all the sequences in the sequence listing. Applicant respectfully requests entrance of the substitute sequence listing as part of the application. No new matter is added to the substitute sequence listing. Applicant respectfully requests the rejection be withdrawn.

Claims 1-8 and 18 remain rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement for reasons of record. The Examiner alleges that "the peptide variants including analogs, derivatives and truncations without defined structure and function would encompass numerous peptides with substantial structural variations, especially for derivatives and truncations." Applicant respectfully traverses this rejection.

While Applicant in no way concedes to the merits of the Examiner's rejection, in the interest of advancing prosecution, claim 1 has been amended to include the features of claim 6 and recites that the isolated polypeptide, derivative or analogue thereof is according to Formula I, with the different positions defined in the same manner as in canceled claim 6.

Applicant submits that claims 1-5, 7-8 and 18, as amended, fully comply with the written description requirement. As previously discussed, the specification provides sufficient detail to convey to one of ordinary skill in the art that Applicant had possession of the claimed invention. As disclosed on pages 11-12, the specification describes 20 different peptides. In addition to these peptides, the specification provides a definition, by structure and formula that is sufficient to distinguish it from other materials. The specification discloses formula I, which specifically sets forth additional species of the genus of the claimed polypeptide, derivative or analogue thereof. The claims, as amended, clarify that the derivative, analogue and truncation will still have the tandem repeat. As explained throughout the specification (e.g., page 6, first and third full paragraph), polypeptides having the tandem repeat region derived from an HSPG receptor binding region of apolipoprotein B exhibited antiviral properties. Thus, the tandem repeat is the defined structure that is correlated with the antiviral function of the polypeptide, derivative, analogue, and truncation. The combination of this disclosure clearly conveys to one of ordinary skill in the art that Applicant had possession of the claimed invention at the time of the filing of the application.

In light of the foregoing, Applicant respectfully request reconsideration and withdrawal of this rejection.

Claims 1, 3-4 and 8 remain rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Lunec *et al.* (WO 98/42751) for reasons of record. Particularly, the Examiner asserts that claims do not specifically define the truncation and the sequence disclosed by Lunec *et al.* can be considered as a truncation of the tandem repeat of human apolipoprotein B. Applicant respectfully traverses this rejection.

A claim is anticipated if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference (MPEP §2131, citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987)).

While, Applicant does not concede to the merits of the Examiner's rejection, in the interest of advancing prosecution of the present application, claim 1 has been amended to clarify that the truncation of the polypeptide, derivative or analogue thereof still comprises the tandem repeat. In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the rejection under §102(b).

All of the claims in the application are now believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited. If for any reason Examiner finds the application other than in condition for allowance, Examiner is requested to call the undersigned attorney at the Los Angeles telephone number (213) 633-6800 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,
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